

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

In re

SHIRLEY DOWDY

Case No: 15-23763-dsk
Chapter: 7

Debtor(s),

ROBERT FRETT,

Plaintiff,

VS.

Adversary Proceeding No.:

SHIRLEY DOWDY

Defendant.

COMPLAINT TO DENY DISCHARGEABILITY OF DEBT AND FOR JUDGMENT BY
ROBERT FRETT

Comes now your Plaintiff, Robert Frett, and sues the defendant, Shirley Dowdy, to have the Court declare the indebtedness due and owing Robert Frett to be non-dischargeable and for judgment in favor of Robert Frett and against the Defendant, and would show to the Court, as follows:

1. The Plaintiff is an individual resident of Shelby County, Tennessee, residing at 4022 Point Church Road, Memphis, TN 38127. The Defendant is a resident of Shelby County, Tennessee, residing at 6585 Bald Oak Drive, Memphis, TN 38141. Jurisdiction is proper in Shelby County, Tennessee.

2. The Defendant and Plaintiff began living together in 2013 and became engaged to be married. The Plaintiff had a checking account and a savings account with First Tennessee Bank.
3. The Plaintiff placed the Defendant's name on his checking and savings account. The Defendant was placed on the savings account so that she would obtain those funds in the event of the Plaintiff's death. It was agreed by both parties that the money in the savings account would not be touched without both parties agreeing to any withdrawal.
4. The Plaintiff made deposits into the savings account on a routine basis. Deposits were also made into a different checking account in which household expenses were paid.
5. The Plaintiff reviewed the checking account bank statement on a monthly basis that seemed to be in order. However, the savings account statement was being intercepted by the Defendant and the plaintiff did not see the savings account statement.
6. In August 2014, the Plaintiff discovered that the Defendant had withdrawn \$40,000.00 from the savings account over a period of time from September 2013 through August 2014. The Defendant acknowledged that she should repay the funds taken out of the savings account at First Tennessee Bank by executing a Note dated August 22, 2014, that those funds should be repaid.
7. Pursuant to §523(a) (4), the debt due and owing the Plaintiff by the Defendant should be declared nondischargeable for the debtor's fraud while acting in a fiduciary capacity from embezzlement or larceny.

8. During this time, after the Plaintiff discovered the Defendant had withdrawn over \$40,000.00 from the Plaintiff's savings account, the parties stopped living together. After that time, the Defendant, who had obtained credit card information from the Plaintiff, began taking out cash advances from the Plaintiff's account. After Plaintiff discovered these withdrawals, he notified his Bank, who in turn, paid him back for those withdrawals and made him whole. That is why this amount is not included in the plea; however, it shows the Defendant's pattern of embezzlement.
9. The Plaintiff sued the defendant in State Court under General Sessions Docket Number 1736764. The debtor did not list this lawsuit in her Schedules. The Defendant did not notify the Plaintiff that she had filed a Chapter 7 bankruptcy on April 27, 2015. A judgment was taken on April 29, 2015 since the Plaintiff was unaware that the Defendant filed a Chapter 7 bankruptcy.
10. The Plaintiff would further show that he made and paid for numerous improvements and upgrades to the Defendant's home for which he is not seeking compensation.

WHEREFORE, PREMISES CONSIDERED, Plaintiff sues the Defendant for a judgment of \$40,000.00, plus court costs, to draw interest at 10 percent interest, and for any other relief the Court, may in good conscience dictate.

/s/David E. Drexler
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CERTIFICATE OF SERVICE

The following parties were served September 16, 2015:

Debtor – via U S Mail

Debtor's Attorney – via E-Mail

Trustee – Via E-Mail